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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,764	10/06/2006	Daniel B. McKeown	65143.0003	3870
24629 7590 05/27/2009 DARYL W SCHNURR MILLER THOMSON LLP ACCELERATOR BUILDING 295 HAGEY BLVD., SUITE 300 WATERLOO, ON N2L 6R5 CANADA				
			EXAMINER WILLIAMS, MONICA L	
			ART UNIT 3644	PAPER NUMBER
			MAIL DATE 05/27/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/599,764

Applicant(s)

MCKEOWN, DANIEL B.

Examiner

MONICA L. WILLIAMS

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 12, 17, 29, 30 and 35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear exactly how the applicant is measuring first tastes? How does the applicant know when the animal actually tastes the food?

3. Claims 1-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear exactly how one could discern if an animal was "uncomfortable" or not? And how is it possible to make an opening that would make "any" animal uncomfortable?

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 30 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. Claim 30 recites the limitation "said at least one feed source" in lines 6 and 8. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-18, 20-21, 23-25, 29-31, and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voogd et al (6,615,764) in view of Huisma et al (6,868,804).
9. In re claims 1-3, 7, 8, 10, 13, 20, 21, 24, 25, and 31, with reference to col.1 line 58 to col.2 line 1, col.2 lines 55-60, col.6 lines 48-53, col.7 lines 27-35, and col.10 lines 51-56, Voogd et al disclose an automatic feeding system for animals comprising a feeding station with at least one feed source (9,10), the station being controlled by a programmable processor (8), the processor being connected to a reader (7, 37) to identify the animals having individual identifiers mounted thereon which distinguishes the animals from each other, the feed source being located in a controlled access area, the access being controlled by a gate/barrier (65), there being one gate for each food source, the processor controlling each gate, the processor identifying each animal and

opening and closing each gate for each feed source to allow access or prevent access to each feed source for each animal, determining a type and amount of each feed source consumed by each animal, storing information from that determination in a memory, the processor controlling each gate based on information for each animal. Not disclosed is a tunnel outside the barrier, a baffle in the tunnel, and a ridge beneath the opening of the baffle.

10. However, with reference to Figure 1 and col.4 lines 9-13 and 41-43, Huisma et al disclose a method for feeding animals including a tunnel (as shown in Fig 1, top and sides) outside of the barrier to define a path to the feed source, sizing the tunnel to allow occupation by only one animal at a time, a baffle (6) in the tunnel with an opening therein that is sized to allow passage of only one animal, a ridge (4) to extend from the baffle beneath the opening to make any animal occupying the opening uncomfortable and having an upper edge to support the animal within the tunnel. The advantage of this is to ensure feeding of only one animal at a time. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the feeding system of Voogd et al with the tunnel, baffle, and ridge as taught by Huisma et al in order to ensure feeding of only one animal at a time.

11. In re claims 4, 5, and 23, with reference to col.6 lines 48-53, Voogd et al as modified by Huisma et al, discloses there are at least two controlled access feed sources (9,10), controlling a type of food consumed by each animal and controlling a number of feed sources that a particular animal has access to.

12. In re claim 6, with reference to col.1 lines 58-60, Voogd et al as modified by Huisma et al discloses programming the processor to cut off access for a particular animal when the animal has reached a pre-determined amount of food for that feeding.

13. In re claims 9, 15, and 33, with reference to col.8 lines 11-13, Voogd et al as modified by Huisma et al disclose the system has an output (44) electronically connected to the processor.

14. In re claims 11, 12, 17, 29, 30, and 35, with reference to col.3 lines 8-11 and 48-53, Voogd et al as modified by Huisma et al discloses there is a memory connected to the processor and a sensor (7, 37, 34) on the system, and the sensor records first approaches (col.6 lines 41-48) and first tastes (col.9 lines 9-15) to each feed source in the memory.

15. In re claim 14, with reference to col.7 lines 34-35, Voogd et al as modified by Huisma et al discloses identifiers are embedded beneath the skin of each animal.

16. In re claim 16 and 34, with reference to col.7 lines 46-48, Voogd et al as modified by Huisma et al discloses the claimed invention as described above including the processor is a computer (8).

17. In re claim 18, with reference to col.6 lines 51-53, Voogd et al discloses monitoring a weight of each feed source using a known weighing device. Voogd et al does not disclose using load cells. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have used load cells since they are a known weighing device.

18. Claims 19 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voogd et al (6,615,764) in view of Huisma et al (6,868,804) as applied to claims 1-3, 7, 8, 10, 13, 20, 21, 24, 25, 30, and 31 above, and further in view of Hayes (4,617,876).

19. In re claim 19, Voogd et al as modified by Huisma et al discloses the claimed invention except for a load cell to monitor the weight of the animal.

20. However, with reference to col.3 lines 19-26, Hayes discloses a conventional weighing means located inside each feeding stall. The advantage of this is to accurately weigh the animal in a comfortable environment while the animal is feeding. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the feeding system of Voogd et al as modified by Huisma et al with the weighing device of Hayes in order to accurately weigh the animal in a comfortable environment while the animal is feeding.

21. In re claim 26, Voogd et al discloses as modified by Huisma et al the claimed invention except for downloading information from the computer.

22. However, with reference to col.9 lines 13-21, Hayes discloses a feeding and weighing system where a computer is connected to a processor and information is downloaded from the computer to the processor and information is received from the processor in the computer. The advantage of this is to keep all of the records of all of the animals updated. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the computer system of Voogd

et al as modified by Huisma et al to download information as taught by Hayes in order to keep all of the records of all of the animals updated.

23. Claims 22, 27, 28, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voogd et al (6,615,764) in view of Huisma et al (6,868,804) as applied to claims 1-3, 7, 8, 10, 13, 20, 21, 24, 25, 30, and 31 above, and further in view of Pape et al (6,664,897).

24. In re claims 22 and 32, Voogd et al as modified by Huisma et al disclose the claimed invention except for the reader being a scanner to conduct a retina or iris scan.

25. However, with reference to col.3 lines 46-51 and Figure 5, Pape et al disclose individual animal identifiers being a retina scan or iris scan. The advantage of this is to quickly identify the animal. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the reader of Voogd et al as modified by Huisma et al to be a scanner to conduct a retina or iris scans as taught by Pape et al in order to quickly identify the animal.

26. In re claims 27 and 28, Voogd et al as modified by Huisma et al disclose the claimed invention except for a modem and being connected to a local area network.

27. However, with reference to col.11 lines 33-37 and col.25 lines 52-55, Pape et al disclose a system for animal data using a modem to pass information that is connected to a local area network where information is passed to and from the system. The advantage of this is to quickly and efficiently share data. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the computer system of Voogd et al as modified by Huisma et al to

include a modem and being connected to a local area network as taught by Pape et al in order to quickly and efficiently share data.

Response to Arguments

28. Applicant's arguments filed 02/27/2009 have been fully considered but they are not persuasive.

29. In response to applicant's argument that Figure 1 of Huisma et al cannot be reasonably considered a tunnel, this argument is not persuasive because the Merriam Webster Dictionary Online defines tunnel as "a covered passageway". The device of Huisma et al clearly is a passageway for an animal which has a cover and therefore meets the broad limitation of the claim.

30. In response to applicant's argument that the neck bars of Huisma et al cannot be considered to be a baffle, this argument is not persuasive because Webster's II Dictionary defines a baffle as "a device or partition that stops, alters, or regulates flow". The neck bars (6) of Huisma et al clearly function to stop the animal from fully entering through the passageway and only allow the head to enter through, and therefore they meet the broad limitation of the claim.

31. In response to applicant's argument that there is no indication in Huisma et al that the purpose of the platform (4) is to make the animal feel uncomfortable, this argument is not persuasive because the Examiner maintains that the platform is a foreign material to an animal and it is different from grass and soil and therefore would be uncomfortable in some degree to an animal.

32. In response to applicant's argument that the platform of Huisma et al is not located within the tunnel, this argument is not persuasive because a portion of the platform where the animal must place its front legs (col.4 lines 10-13) is directly below the top portion and between the side portions, and therefore would be considered to be in the tunnel.

33. In response to applicant's argument that Voogd et al does not teach first tastes because there is no choice of feed types offered to the animal, this argument is not commensurate with the scope of the claims.

34. In response to applicant's argument that the prior art does not disclose monitoring first tastes, this argument is not persuasive because Voogd discloses monitoring first tastes in col.9 lines 9-15. The Examiner considers that tasting the food is equated with eating the food, and since the food itself is measured, then the device is monitoring when the food is being eaten and therefore when the food is being tasted.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONICA L. WILLIAMS whose telephone number is (571)270-3113. The examiner can normally be reached on Mon to Fri 6:00-3:30, Alternate Friday off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mansen can be reached on 571-272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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MW 05/13/2009